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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,624	03/23/2001	Walter Canis	END9-2000-0145US1	7110

23550 7590 08/11/2005

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EXAMINER

NEURAUTER, GEORGE C

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/816,624

Applicant(s)

CANIS ET AL.

Examiner

George C. Neurauter, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claims 1-28 are currently presented and have been examined.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5 July 2005 has been entered.

Response to Arguments

Applicant's arguments filed 5 July 2005 have been fully considered but they are not persuasive.

The Applicant argues that Pulsipher does not teach the collection of device identification and detail information. The Examiner is not persuaded by this argument. The specification discloses:

"Collectively, collection tools 42 preferably collect device information relating to: device identity/type, device characteristics (e.g. RAM, available hard drive space, processor speed, etc.); device addresses; software installed on the devices (e.g. WordPerfect, Windows, etc.); and software

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characteristics (e.g. software version). However, it should be understood that this list is not intended to be limiting and other type of information could be retrieved. (page 12, line 19- page 13, line 6)

Further, the limitation "detail information" is not specifically defined in the specification. Therefore, the Examiner interprets this limitation by its plain meaning as required by MPEP 2111.01.

Pulsipher discloses:

"The method efficiently discovers network topology data and comprises the following steps: determining a various sets of topology data with a corresponding set of management and/or collection stations by discovering the devices and interconnections situated at predetermined respective areas of the network and combining the different sets of the topology data at a management station to derive a global view of the entire network topology data at the management station." (column 3, lines 34-42)

"Moreover, the topology data stored with respect to the objects includes, for example but not limited to, an interface or device address, an interface or device type, an interface or device manufacturer, and whether an interface or device supports the SNMP protocol." (column 8, lines 2-6)

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In view of the specification and the disclosures of Pulsipher, Pulsipher does disclose collection of device identification or, at least, "an interface or device address" and detail information or, in accord with the plain meaning of the limitation, "whether an interface or device supports the SNMP protocol".

The Applicant argues that Pulsipher does not teach the collection device identification and detail information from devices on a network by retrieving the device identification and detail information from each device. The Examiner is not persuaded by this argument.

In addition to the above disclosures within Pulsipher, Pulsipher discloses:

"The network monitor 306 can also receive events from other devices, such as a router, in the network 118." (column 7, lines 47-49)

Therefore, Pulsipher does disclose collecting device identification and detail information from devices on a network by retrieving the device identification and detail information from each device.

Further, the specification discloses:

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"Thus, there exists a need for a system and method for mapping a network without having to accessing the entity's network attached devices." (page 3, lines 13-15)

"Specifically, the present invention provides a non-intrusive system and method for collecting information from network attached devices...." (page 7, lines 14-15)

"...[The] communication with network 28 is non-intrusive. That is, no physical or direct access to individual network devices is required." (page 10, lines 8-10)

In view of these disclosures within the specification and the currently amended claims, it appears to the Examiner that the Applicant is claiming the opposite of what the preferred embodiment of the invention, namely, "...retrieving the device identification and detail information at each device", as claimed in the independent claims. The Examiner suggests that the Applicant clearly define the preferred embodiment of the invention in the claims.

The Applicant also argues that Pulsipher does not disclose collection of the device identification and detail information at predetermined scheduled times. The Examiner is not persuaded by this argument. In addition to the above disclosures in Pulsipher, Pulsipher discloses:

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"Another advantage of the internet monitoring system is that it implements cooperating management and/or collection stations that can share data, thereby reducing redundant and unnecessary polling." (column 3, lines 36-39)

Therefore, Pulsipher does disclose wherein the collection of device identification and detail information may be done at predetermined scheduled times.

It is noted that the Applicant has made no attempt to show why each and every amendment made to the claims have any sort of patentable novelty. MPEP 714.04 states:

"In the consideration of claims in an amended case where no attempt is made to point out the patentable novelty, the claims should not be allowed. See 37 CFR 1.111 and MPEP § 714.02."

Therefore, the case is not in condition for allowance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-3, 6-7, 10-13, 15-19, 22-25, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5 948 055 to Pulsipher et al.

Regarding claim 1, Pulsipher discloses a system for mapping a network, comprising:

a collection system for collecting device identification and detail information ("topology data") from devices on the network by retrieving the device identification and detail information at each device; (column 7, lines 41-57)

a timer system for collecting the device identification and detail information at predetermined scheduled times; (column 3, lines 36-39; column 7, lines 41-57, specifically lines 44-49)

an analysis system for analyzing the collected device identification and detail information (column 8, lines 7-24)

a report system for generating a mapping report based on the analyzed device identification and detail information. (column 8, lines 38-49)

Regarding claim 2, Pulsipher discloses the system of claim 1, wherein the collection system comprises at least one collection tool for collecting the device identification and detail information. (column 7, lines 41-57, specifically "network monitor")

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Regarding claim 3, Pulsipher discloses the system of claim 2, wherein the analysis system comprises rules for resolving any conflicts between device identification and detail information collected by at least one collection tool. (column 11, lines 8-19)

Regarding claim 6, Pulsipher discloses the system of claim 1, further comprising a permission system for gaining user access to the network. (column 6, lines 11-35 and 62-64)

Regarding claim 10, Pulsipher discloses the system of claim 9, wherein the report system outputs the generated report. (column 8, lines 38-49 and 52-54, specifically lines 41-49 and 52-54)

Regarding claim 12, Pulsipher discloses a method for mapping a network, comprising the steps of:

installing collection tools on a collection apparatus;
(column 6, lines 52-59)

communicating the collection apparatus with the network;
(column 6, lines 26-28 and 36-45)

operating the collection tools to collect device identification and detail information from devices on the network; (column 7, lines 41-57)

analyzing the device identification and detail information;
(column 8, lines 7-24) and

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reporting the analyzed device identification and detail information. (column 8, lines 38-49)

Regarding claim 13, Pulsipher discloses the method of claim 12, wherein the collection apparatus comprises at least one processor. (column 6, lines 19-20)

Claim 7 is rejected since claim 7 recites a system that contains substantially the same limitations as recited in claims 1-3 in combination.

Claim 11 is rejected since this claim recites a system that contains substantially the same limitations as recited in claim 6.

Claim 15 is rejected since this claim recites a method that contains substantially the same limitations as recited in claim 3.

Claims 17-19 and 22 are rejected since these claims recite a program product that contains substantially the same limitations as recited in claims 1-3 and 6 respectively.

Claims 23-25 and 28 are rejected since these claims recite a computer system that contains substantially the same limitations as recited in claims 1-3 and 6 respectively.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in

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order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 4-5, 8-9, 14, 20-21, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pulsipher et al in view of US Patent 6 282 175 to Steele et al.

Regarding claim 4, Pulsipher discloses the system of claim 1 wherein the device identification and detail information includes device identity, device addresses, device characteristics, software installed on the devices, and software characteristics of the devices on the network. (column 7, line 65-column 8, line 6)

Pulsipher does not disclose wherein the device identification and detail information includes operating system software installed on the devices, however, Pulsipher does disclose wherein the device may be a computer (column 7, line 67-column 8, line 2, specifically column 8, line 1).

Steele discloses wherein device identification and detail information includes operating system software installed on the devices (column 2, lines 32-40)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of these references since Steele discloses that collecting

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information concerning the operating system allows identification of what has changed in the configuration of a computer which aids in troubleshooting and management of a computer system network (column 2, lines 1-4). In view of these specific advantages and that the references are directed to collecting device identification and detail information about devices on a network, one of ordinary skill would have been motivated to combine these references and would have considered them to be analogous to one another based on their related fields of endeavor, which would lead one of ordinary skill to reasonably expect a successful combination of the teachings.

Claims 8, 14, 20, and 26 are also rejected since these claims recite a system, method, program product, and computer system that contain substantially the same limitations as recited in claim 4.

Regarding claim 5, Pulsipher discloses the system of claim 4 wherein the generated mapping report includes the device identities, device types, the device addresses, the device characteristics, the software installed on the devices, and the software characteristics. (column 7, line 65-column 8, line 6; column 8, lines 38-49, specifically "topology data")

Pulsipher does not disclose wherein the generated mapping report includes operating system software installed on the

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devices, however, Pulsipher does disclose wherein the device may be a computer (column 7, line 67-column 8, line 2, specifically column 8, line 1).

Steele discloses wherein a generated mapping report includes operating system software installed on the devices (column 2, lines 13-15 and 32-40)

Claim 5 is rejected since the motivations regarding the obviousness of claim 4 also apply to claim 5.

Claims 9, 21, and 27 are also rejected since these claims recite a system, method, program product, and computer system that contain substantially the same limitations as recited in claim 5.

Conclusion

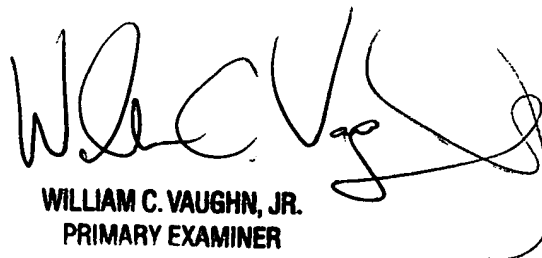
Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is (571) 272-3918. The examiner can normally be reached on Monday through Friday from 9AM to 5:30PM Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gcn



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PRIMARY EXAMINER